

therefore, having failed to request a refund or credit as required by section 10 of the OCSLA, 43 U.S.C. 1339, and the payor asserts pursuant to 30 CFR part 290 that some or all of the royalties or interest assessed is not owed pursuant to the exception set forth in paragraph (b) of this section, the burden is on the payor to demonstrate that the exception applies in the specific circumstances of the case.

(e) The exception set forth in paragraph (b) of this section shall not operate to relieve any payor of any liability imposed by statute or regulation for erroneous reporting.

**Subpart B—Oil, Gas, and OCS
Sulfur, General [Reserved]**

**Subpart C—Federal and Indian Oil
[Reserved]**

**Subpart D—Federal and Indian
Gas [Reserved]**

**Subpart E—Solid Minerals, General
[Reserved]**

Subpart F—Coal [Reserved]

**Subpart G—Other Solid Minerals
[Reserved]**

**Subpart H—Geothermal
Resources [Reserved]**

Subpart I—OCS Sulfur [Reserved]

**Subpart J—Refunds and
Recoupments of Overpay-
ments Under Federal Leases
on the Outer Continental
Shelf; Implementation of Sec-
tion 10 of the Outer Continen-
tal Shelf Lands Act**

SOURCE: 59 FR 38363, July 28, 1994, unless otherwise noted.

§ 230.451 Scope.

This subpart establishes the procedures that lessees and other persons who make royalty and other payments on Federal oil and gas leases on the

Outer Continental Shelf (OCS) must follow to recover certain excess payments made in connection with their leases in accordance with section 10 of the Outer Continental Shelf Lands Act (section 10), 43 U.S.C. 1339. The requirements of this subpart apply to both requests for refund from the Treasury of excess payments and requests to recover excess payments by recouping the amount through a credit adjustment. This subpart applies only to Federal leases on the OCS.

§ 230.452 Definitions.

Terms used in this subpart shall have the same meaning as in 30 U.S.C. 1702. In addition, the following definitions apply to this subpart:

Credit or crediting means reduction of a current or future royalty or other payment made in connection with a lease as a result of reporting a credit adjustment.

Credit Adjustment means any adjustment reported on a Report of Sales and Royalty Remittance (Form MMS-2014) or any other royalty report form which reduces any royalty or other payment made in connection with a lease which was reported and paid in any previous period.

Offset means to net or cancel previous overpayments against previous underpayments on the same OCS lease or across lease boundaries if all the individual leases are part of an approved unit agreement.

Overpayment means any payment made in excess of the amount that the lessee was lawfully required to pay.

Payment means money MMS receives in satisfaction of a lessee's royalty, rental, bonus, net profit share, or late payment interest obligation as established by statute, regulation, or the terms of a lease.

Recoup or recoupment means to recover a previous overpayment through a credit against a current or future royalty or other payment or liability under an OCS lease. A recoupment occurs whenever a payor reports a credit adjustment on a Form MMS-2014 or other royalty report form resulting in a net negative dollar value for the transaction and the credit is taken against the royalty or other payment

or liability shown in the balance of the report.

Refund means a repayment by the United States Treasury to a person of any overpayment.

Unit means an area of 2 or more leases subject to an agreement for the consolidated development and recovery of oil and gas contained on the leases which are part of the agreement approved by MMS.

§ 230.453 Request for refund or credit.

(a) Except as otherwise provided in this subpart, no person may recover an excess payment it has made in connection with an OCS lease unless:

(1) That person has made a request for refund or credit in accordance with the provisions of this subpart;

(2) MMS has transmitted a report on the request for refund or credit to the President of the Senate and the Speaker of the House of Representatives and 30 days have expired since the submission in accordance with section 10(b), 43 U.S.C. 1339(b); and

(3) MMS notifies the person that its request for refund or credit is authorized and that the person may receive its refund for, or may report a credit adjustment to recoup, the excess payment.

(b) A request for refund or credit must:

(1) Be in writing;

(2) Provide the person's MMS-established payor code;

(3) Identify the leases and sales months with respect to which the excess payments occurred;

(4) Identify the amount of the excess payment or, with specificity, describe a class of payments that are, or as a result of an administrative or judicial decision or other identified contingency, may become, excess payments;

(5) Provide the reasons why a refund or credit is due;

(6) Include a certification that, to the best of the person's knowledge or belief, the information provided in response to paragraphs (b)(2) through (b)(5) of this section is accurate and complete.

(c) If MMS determines that a request for refund or credit is incomplete, the person who submitted the request will have 30 days, or such time as MMS may

specify, following notice from MMS, to supplement the request for refund or credit.

(d) A credit adjustment reported on a Form MMS-2014 does not constitute a request for refund or credit for purposes of this section, and does not constitute an incomplete request for refund or credit for purposes of paragraph (c) of this section.

(e) A person who has filed a request for refund or credit pursuant to this section may amend that request to add an additional amount if:

(1) The additional amount is for the same lease and sales month; and

(2) The reason for the excess payment for the additional amount is the same as for the originally requested amount.

(f) Except as otherwise provided in this subpart, no request for a refund or credit will be approved unless the request is received at MMS at the address provided below within 2 years of the date that MMS received the excess payment.

(1) The request for refund or credit must be received at the following address:

(i) By mail: Minerals Management Service, Section 10 Refund Requests, P.O. Box 173702, Denver, CO 80217-3702.

(ii) By express delivery or courier: Minerals Management Service, Section 10 Refund Requests, Building 85, Denver Federal Center, Room A-212, Denver, CO 80225.

(2) If the last day of the 2-year period from the date MMS received the excess payment falls on a Saturday, Sunday, holiday or any other day that MMS is not open for business at the address specified in paragraph (f)(1) of this section, then the last day of the 2-year period will be the next regular business day. Requests received at the specified MMS address after 4 p.m. Mountain Time are considered received the following business day.

§ 230.454 Interest on excess payments.

No person is entitled to interest on any excess payment made in connection with a lease that is refunded or recouped pursuant to this subpart.